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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/574,985	05/19/2000	Dana W. Wolcott	80724PF-P	9582

1333 7590 05/19/2003

PATENT LEGAL STAFF  
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EXAMINER

BROWN, TIMOTHY M

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 05/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/574,985

Applicant(s)

WOLCOTT ET AL.

Examiner

Tim Brown

Art Unit

3625

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-36.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
Jeremy A. Smith  
Primary Examiner

Continuation of 2. NOTE: None of the pending claims recite selecting a camera from a selection of cameras. Hence, reciting this limitation in amended claims 1 and 24 raises new issues.

Continuation of 5. does NOT place the application in condition for allowance because: Applicants' arguments are not persuasive. Applicants point out Frey et al. (US 6,369,908) ("Frey") does not teach the photographic service plan of the claimed invention. Applicants refer the Examiner to page 39, line 26 through page 40, line 16 of the specification. The Examiner notes that while claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Consequently, the rejection of the claims does not hinge on whether Frey discloses the service plan as described in the specification. Moreover, Frey teaches the providing a service plan as recited in the claims. Claim 1 recites "selecting a photographic product/service plan from a menu of photographic product/service plans. . . ." According to Frey, a user is permitted to send a photographic email message by capturing an image of himself, modifying the image by adding banners, text and/or audio messages, and sending the image to an electronic address of the user's choosing. See Abstract. Because a "product" is broadly defined as "something produced" (Merriam-Webster's Collegiate Dictionary, Tenth Edition, p. 930 (1999)), Frey's generation of a photographic email constitutes a photographic product. Furthermore, Frey teaches selecting a photographic product in that the photographic email that is ultimately sent results from the user's interactive decision-making process. Consequently, Frey teaches selecting a photographic product/service plan from a menu of photographic product/service plans.